

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Land Division
Honolulu, Hawaii 96813

August 12, 2011

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

PSF No.:110d-091

OAHU

Grant of Perpetual, Non-Exclusive Easement to Hawaiian Telcom, Inc. for Utility Lines
Purposes, Kapolei, Ewa, Oahu, Tax Map Key: (1) 9-1-017:portion of 110

APPLICANT:

Hawaiian Telcom, Inc., a domestic profit corporation

LEGAL REFERENCE:

Section 171-95, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands situated at Kapolei, Ewa, Oahu, identified by Tax Map Key: (1)
9-1-017:portion of 110, as shown on the attached map labeled **Exhibit A**.

AREA:

To be determined, subject to review and approval by the Department of Accounting and
General Services, Survey Division

ZONING:

State Land Use District: Urban
City & County of Honolulu LUO: AG-1

TRUST LAND STATUS:

Acquired after Statehood, i.e. non-ceded

DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: No

CURRENT USE STATUS:

Vacant and unencumbered.

CHARACTER OF USE:

Right, privilege and authority to construct, use, maintain, repair, replace and remove telecommunication transmission lines, poles, guy wires and anchors over, under and across State-owned land.

COMMENCEMENT DATE:

June 1, 2011.

CONSIDERATION:

One-time payment to be determined by independent appraisal establishing fair market rent, as of June 1, 2011, subject to review and approval by the Chairperson.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

In accordance with Hawaii Administrative Rule Section 11-200-8(a)(3) (D) and (4), the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 3, that states "Construction and location of single, new, small facilities or structures and the alteration and modification of the same and installation of new, small, equipment and facilities and the alteration and modification of same, including, but not limited to ... (D) Water, sewage, electrical, gas, telephone, and other essential public utility services extensions to serve such structures or facilities" and Class No. 4, that states "Minor alteration in the conditions of land, water, or vegetation." See **Exhibit B**.

DCCA VERIFICATION:

Place of business registration confirmed:	YES <u> x </u>	NO <u> </u>
Registered business name confirmed:	YES <u> x </u>	NO <u> </u>
Applicant in good standing confirmed:	YES <u> x </u>	NO <u> </u>

APPLICANT REQUIREMENTS:

Applicant shall be required to:

- 1) Pay for an appraisal to determine one-time payment;

- 2) Provide survey maps and descriptions according to State DAGS standards and at Applicant's own cost; and
- 3) Process and obtain subdivision at Applicant's own cost.

REMARKS:

Department of Hawaiian Home Lands (DHHL) is responsible for the construction of the road East-West Road and Road E pursuant to the Memorandum of Agreement signed between DHHL and this Department on December 31, 2007 (**Exhibit C**). Upon completion of the construction, the roads are intended to be conveyed to the City and County of Honolulu (City) after the City pass a resolution to accept the roadway improvements, if necessary.

Staff understand that after the City accept the roads, Hawaiian Telcom, Inc. (HTI), being a public utility entity will be able to lay its telecommunication lines within the public right-of-way, i.e. the subject roads pursuant to its franchise agreement.

At the time of writing this submittal, the construction has not been completed yet. Therefore, the requested locations are under the jurisdiction of the Board. The construction schedule of the roads required HTI to start laying its lines at the subject location on June 1, 2011. The Department issued an immediate of construction and management right-of-entry to HTI, which was accepted by HTI on June 1, 2011. The immediate right-of-entry allowing the installation of the conduit will save costly road digging if the conduits are installed after the fact. HTI also requests the Board issue a perpetual easement for utility purposes.

Applicant has not had a lease, permit, easement or other disposition of State lands terminated within the last five years due to non-compliance with such terms and conditions.

Department of Health, Department of Design and Construction, Department of Facility Maintenance, Office of Hawaiian Affairs, Division of Forestry and Wildlife, and Division of Aquatic Resources have no comment/objections to the request. Copies of responses from DDC and DFM are attached as **Exhibit D** and **E** respectively.

Department of Hawaiian Home Lands (DHHL) was aware of the requested easement at the time when the construction and management right-of-entry was issued to HTI, and DHHL had no objection.

Department of Planning and Permitting, Board of Water Supply, Commission on Water Resource Management and State Historic Preservation have not responded as of the suspense date.

Since the right-of-entry was accepted on June 1, 2011, staff recommends the Board stipulate June 1, 2011 as the commencement of the requested easement and also the date of valuation

of the easement.

At the time of writing this submittal, there is no anticipated date of the formal dedication of the roadway to the City. Later, the land upon which the roads are built will be transferred to the City as mentioned above subject to the easement.

RECOMMENDATION: That the Board:

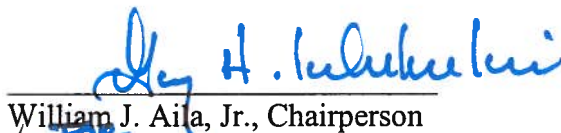
1. Declare that, after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and Chapter 11-200, HAR, this project will probably have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment.
2. Subject to the Applicant fulfilling all of the Applicant requirements listed above, authorize the issuance of a perpetual non-exclusive easement to Hawaiian Telcom, Inc. covering the subject area for utility purposes under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:
 - A. The standard terms and conditions of the most current perpetual easement document form, as may be amended from time to time;
 - B. Review and approval by the Department of the Attorney General; and
 - C. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,

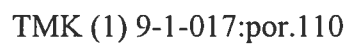


Barry Cheung
District Land Agent

APPROVED FOR SUBMITTAL:



William J. Aila, Jr., Chairperson



(rev. 02/2010)

NEIL ABERCROMBIE
GOVERNOR OF HAWAII



**STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES**

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

August 12, 2011

WILLIAM J. AILA, JR.
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

GUY H. KAULUKUKUI
FIRST DEPUTY

WILLIAM M. TAM
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENFORCEMENT

FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

EXEMPTION NOTIFICATION

regarding the preparation of an environmental assessment pursuant to Chapter 343, HRS and Chapter 11-200, HAR

Project Title:	Utility Easement
Project / Reference No.:	PSF 110d-091
Project Location:	Kapolei, Ewa, Tax Map Key: (1) 9-1-017:portion of 010
Project Description:	Installation of conduit for telephone lines
Chap. 343 Trigger(s):	Use of State Land
Exemption Class No.:	In accordance with Hawaii Administrative Rule Section 11-200-8(a)(3)(d) and (4), the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 3 (d), that states "Construction and location of single, new, small facilities or structures and the alteration and modification of the same and installation of new, small, equipment and facilities and the alteration and modification of same, including, but not limited to: water, sewage, electrical, gas, telephone, and other essential public utility services extensions to serve such structures or facilities; accessory or appurtenant structures including garages, carports, patios, swimming pools, and fences; and acquisition of utility easements." and Class No. 4, that states "Minor alteration in the conditions of land, water, or vegetation."

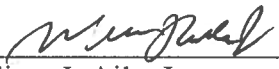
The request pertains to the installation of the utility lines on the sidewalk of the future roadway. Staff does not expect there will be major alterations and conditions of the land, water or vegetation condition.

Consulted Parties	Not applicable
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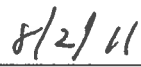
EXHIBIT B

Recommendation:

That the Board find this project will probably have minimal or no significant effect on the environment and is presumed to be exempt from the preparation of an environmental assessment.



William J. Aila, Jr.
Chairperson



Date

MEMORANDUM OF AGREEMENT
THE CONSTRUCTION OF THE EAST-WEST ROAD,
KAPOLEI, EWA, OAHU,
TMK: (1) 9-1-16:portion of 141 (formerly portion of 108)
and (1) 9-1-17:portions of 71 and 88

THIS AGREEMENT, made this 31st day of December 2007,
by and between the DEPARTMENT OF HAWAIIAN HOME LANDS (hereinafter "DHHL") and
the DEPARTMENT OF LAND AND NATURAL RESOURCES (hereinafter "DLNR")

WITNESSETH THAT:

WHEREAS, DHHL is planning the construction of the following two (2) roads:

- 1) The Kapolei Parkway Extension, an eastward extension of Kapolei Parkway previously constructed by the Hawaii Community Development Corporation of Hawaii, now referred as the "Hawaii Housing Finance and Development Corporation (HHFDC)", being further described as a separate roadway lot by County Subdivision File number 2005/SUB-108, approved on June 17, 2005, and bearing Tax Map Key: (1) 9-1-16:portion of 141; and
- 2) A section of the East-West Road, situated in Kapolei, Ewa, Oahu, extending from the southern half of the North-South Road, traversing Tax Map Keys: (1) 9-1-17: 71 and 88, and heading east toward Fort Weaver Road.

WHEREAS, the Kapolei Parkway Extension and a portion of the East West Road will be constructed on DLNR lands reserved for DHHL by the Board of Land and Natural Resources, at its meeting on September 24, 2004, under item D-14, as part of a 16,518-acre settlement agreement between DLNR and DHHL.

WHEREAS, DHHL desires the turnover of the Kapolei Parkway Extension and the East-West Road to the City and County of Honolulu (hereinafter "City") following its construction for on-going maintenance and repair in accordance with the provisions of Chapter 264, Hawaii Revised Statutes, as amended.

WHEREAS, DHHL and DLNR acknowledge the Hawaiian Homes Commission Act which prohibits the disposition of Hawaiian home lands in fee simple, except as authorized by the Act.

WHEREAS, the Kapolei Parkway Extension and East-West Road are both part of the regional roadway system designed to accommodate arterial flow past public and private development. Therefore, they are both considered "public highways".

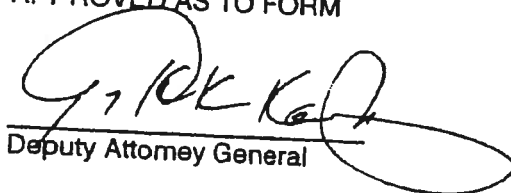
WHEREAS, DLNR has retained the fee simple interest in the land underlying the subject roads, and will convey the said land to the City upon the passing of a City Council Resolution to accept the roadway improvements, if necessary.

NOW, THEREFORE, in consideration of the premises contained in this Agreement, the parties agree as follows:

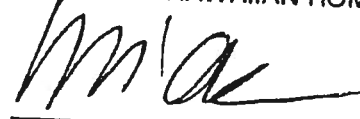
1. DHHL will construct the Kapolei Parkway Extension and its portion of the East-West Road in conformance with the City's standards for roadways.
2. DHHL will be responsible for the maintenance and repair of the Kapolei Parkway Extension and its East-West Road improvements until such time that the fee simple interest in the land and road improvements thereon are transferred to the City.
3. DHHL will be responsible for all liability the land, Kapolei Parkway Extension and East-West Road improvements thereon may pose until the fee simple interest and improvements on said land are transferred to the City.
4. DLNR will retain fee ownership in the land under the Kapolei Parkway Extension and East-West Road, and convey the same to the City following a City Council resolution approving the City's acceptance of the subject roadways.
5. This Agreement shall be binding upon the parties hereto, their representatives, successors and assigns.

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be executed by their duly authorized officers as of the day and year first above written.

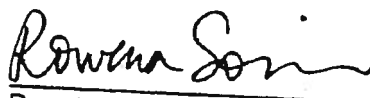
APPROVED AS TO FORM


Deputy Attorney General

STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS

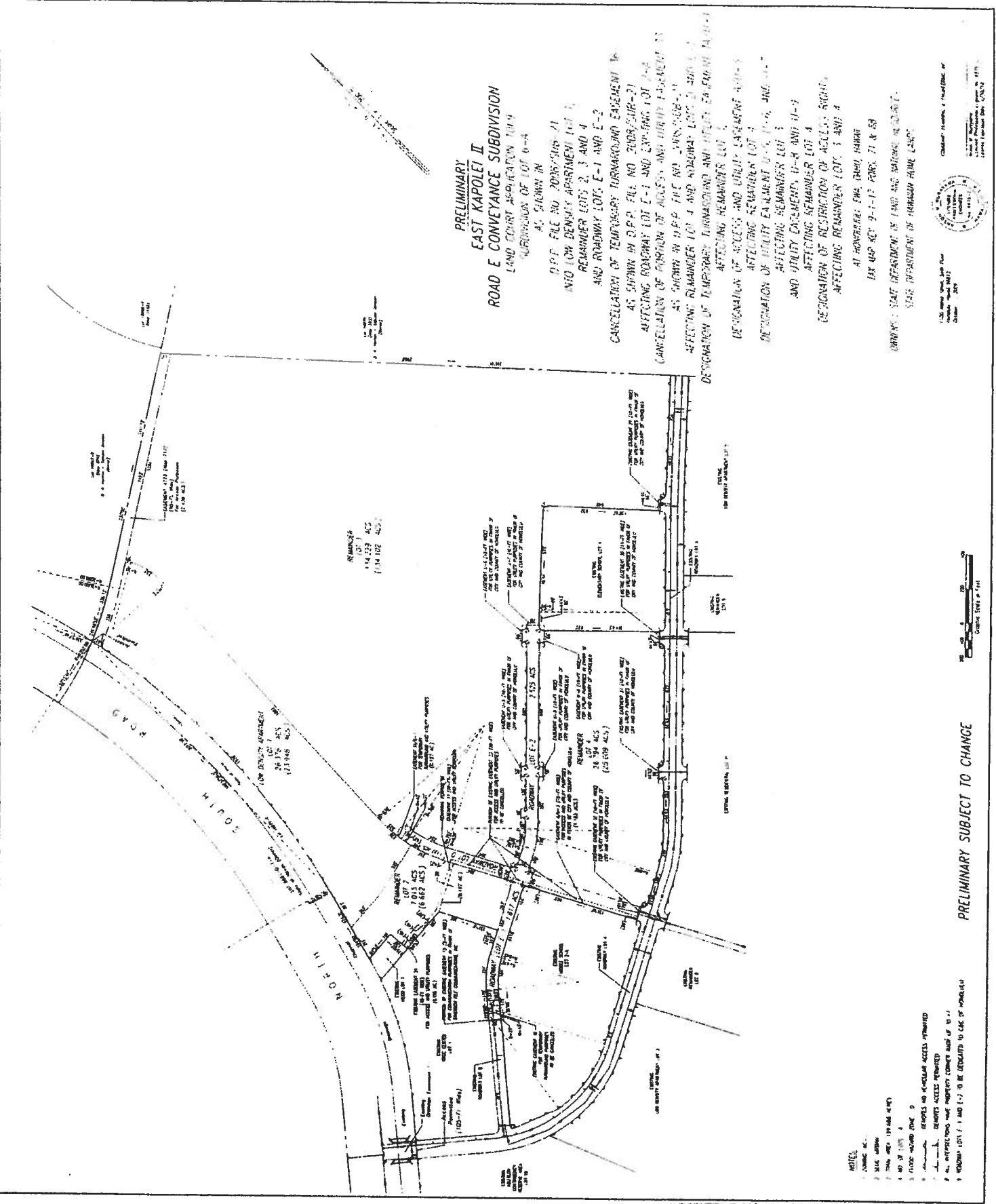
By 
Micah A. Kane, Chairman

APPROVED AS TO FORM


Deputy Attorney General

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL
RESOURCES

By 
Laura H. Thielen, Chairperson



**PRELIMINARY
EAST KAPOLEI II
ROAD E CONVEYANCE SUBDIVISION**

LAND COURT APPLICATION 11-1-9
SUBDIVISION OF LOT 6-4

AS SHOWN IN
O.P.P. FILE NO. 2008-008-21

INTO LOW DENSITY APARTMENT LOT 1

REMAINDER LOTS 2, 3 AND 4

AND ROADWAY LOTS E-1 AND E-2

CANCELLATION OF TEMPORARY TURNAROUND EASEMENT IN

AS SHOWN IN O.P.P. FILE NO. 2008-008-21

AFFECTING ROADWAY LOT E-1 AND EASEMENT LOT 1-2

CANCELLATION OF PORTION OF ACCESS AND TURNAROUND EASEMENT

AS SHOWN IN O.P.P. FILE NO. 2008-008-21

AFFECTING REMAINDER LOT 1 AND ROADWAY LOT 2-2

DESIGNATION OF TEMPORARY TURNAROUND AND UTILITY EASEMENT IN

AFFECTING REMAINDER LOT 1

DESIGNATION OF UTILITY EASEMENT LOT 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100

AND UTILITY EASEMENT LOT 1-9

AFFECTING REMAINDER LOT 4

DESIGNATION OF RESTRICTION OF ACCESS RIGHT

AFFECTING REMAINDER LOT 3 AND 4

AT MONROE EMB. TRAIL, HAWAII

LAW OFFICE: 9-1-17 PAGES 21 & 53

STATE DEPARTMENT OF LAND AND NATURAL RESOURCES

STATE DEPARTMENT OF HEALTH AND LANDS

- NOTES:**
- 1. ZONING: LDC-1
 - 2. SCALE: 1"=100'
 - 3. DATE: 11-1-9
 - 4. BY: [Signature]
 - 5. FOR: [Signature]
 - 6. PREPARED BY: [Signature]
 - 7. CHECKED BY: [Signature]
 - 8. APPROVED BY: [Signature]
 - 9. REVISIONS: 1 AND 2 TO BE MADE TO CASE OF ERROR

PRELIMINARY SUBJECT TO CHANGE





RECEIVED
LAND DIVISION

2011 JUN 16 PM 2:06
STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
LAND DIVISION

DEPT. OF LAND & NATURAL RESOURCES
STATE OF HAWAII
POST OFFICE BOX 621
HONOLULU, HAWAII 96809

June 13, 2011

Ref. No.: 11od-091

MEMORANDUM

TO:

State Agencies:

- ☒ DOH
- ☒ DHHL
- ☒ DLNR-Aquatic Resources
- ☒ DLNR-Forestry & Wildlife
- ☒ DLNR-Historic Preservation
- ☐ DLNR-State Parks
- ☐ DLNR-Conservation and Coastal Lands
- ☒ DLNR-Water Resource Management
- ☐ DOT

County Departments:

- ☒ Planning
- ☒ Design and Construction
- ☒ Facility Maintenance
- ☒ Board of Water Supply

Federal Agencies:

- ☐ Corps of Engineers
- ☐ NRCS

Other Agencies:

- ☒ Office of Hawaiian Affairs

FROM:

Barry Cheung, District Land Agent *Barry Cheung*

SUBJECT: Request for Perpetual, Non-Exclusive Easement for Utility Purposes

LOCATION: Kapolei, Ewa, Oahu, TMK (1) 9-1-017:por.110

APPLICANT: Hawaiian Telcom, Inc.

Transmitted for your review and comment is a copy of the draft Board submittal for the above referenced request involving State lands. We would appreciate your comments on this application. Please submit any comments by July 15, 2011. If no response is received by this date, we will assume your agency has no comments. If you have any questions about this request, please contact my office at 587-0430. Thank you.

Enclosure

DRM 11-469

(X) We have no objections.

() We have no comments.

() Comments are attached.

Signed: *[Signature]*

Date: *[Signature]*

EXHIBIT "D"



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
LAND DIVISION

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

June 13, 2011

in
du
up
Land
420844

Ref. No.: 11od-091

MEMORANDUM

TO:

State Agencies:

- ☒ DOH
- ☒ DHHL
- ☒ DLNR-Aquatic Resources
- ☒ DLNR-Forestry & Wildlife
- ☒ DLNR-Historic Preservation
- ☐ DLNR-State Parks
- ☐ DLNR-Conservation and Coastal Lands
- ☒ DLNR-Water Resource Management
- ☐ DOT

County Departments:

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- ☒ Design and Construction
- ☒ Facility Maintenance
- ☒ Board of Water Supply

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- ☐ NRCS

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Enclosure

LA 11-445.JH

- (X) We have no objections.
- (X) We have no comments.
- () Comments are attached.

Signed:

[Signature]
Director

Department of Design and Construction

Date:

JUL 15 2011

CDL:jh (420844)

EXHIBIT "E"